CWP No.1270 of 2006

10.12.2007 Present : Mr.Ajay Chandel, counsel for the petitioner.

Mr.YPS Dhaulta, CGSC for the respondents.

Reply has not been filed. Sh.Dhaulta prays for further time to file reply. In this case on 12.12.2006 twelve weeks' time was given to the respondents to file reply. Almost one year has elapsed and still reply has not been filed. No further opportunity can be granted and right to file reply is closed.

The facts which stand established on record are that Lal Singh husband of the petitioner was engaged as Sepoy in the Indian Army. He was discharged from the Indian Army on 31.5.1978 and thereafter was receiving pension. According to the petitioner her husband died on 2.12.1998. However, family pension has been granted to her only w.e.f. 27.7.2001. Legal notice was issued to the respondents by the petitioner informing them that her husband has died on 2nd December, 1998 and she was entitled to family pension w.e.f. 3rd December, 1998. There was no response to the legal notice and even to the writ petition no reply has been filed.

From the material placed on record it is obvious that the pension is being paid to the petitioner in respect of her husband late Sh.Lal Singh. It is also apparent that this pension is being paid w.e.f. 27.7.2001. Reference may be made to the copy of the pension book Annexure P-1 and especially 3rd paid thereof wherein period of grant of pension is mentioned as 27.7.2001 and the date 3.12.1998 finds mention but has been encircled. There is no reason given why the petitioner has not been granted pension from 3rd December, 1998 which is the date of death of the husband of the petitioner.

Keeping in view the aforesaid facts and circumstances we are of the considered view that the petitioner was entitled to pension w.e.f. 3.12.1998 and there was no reason for withholding the same especially when she being the widow and was granted pension w.e.f. 27.7.2001. Therefore, the writ petition is allowed and the respondents are directed to release the arrears of family pension to the petitioner for the period w.e.f. 3.12.1998 till 26.7.2001 within a period of 12 weeks from today. The petitioner shall also be entitled to interest on the aforesaid arrears @ 9% from the date this amount fell due till the date of payment.

Petition is disposed of in the aforesaid terms.

(Deepak Gupta),
Judge

December 10, 2007 **(V.K. Ahuja)**
PV **Judge.**